

General Information Letter: Individual owners of pass-through entities are not eligible to provide the pass-through entities with certificates exempting themselves from withholding.

April 14, 2008

Dear:

This is in response to your letter dated March 21, 2008, in which you request a letter ruling. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

This letter is to request an interpretation of § 5/709.5, effective January 11, 2008, and, in particular, the italicized language below:

A partnership, Subchapter S corporation, or trust shall not be required to withhold tax under subsection (a) of this Section with respect to any nonresident partner, shareholder, or beneficiary (*other than an individual*) from whom the partnership, S corporation, or trust has received a certificate, completed in the form and manner prescribed by the Department, stating that such nonresident partner, shareholder, or beneficiary shall . . .

The undersigned is an individual, non-resident partner of an Illinois limited liability partnership and has submitted quarterly estimated taxes and filed annual tax returns since joining the partnership. This request is to inquire whether the italicized language of “other than an individual” modifies only “or beneficiary” or precludes any individual partner or shareholder from availing himself or herself of the provisions of § 5/709.5(c)(1) upon submission of a proper certificate.

Response

Section 709.5(c)(1) of the Illinois Income Tax Act (35 ILCS 5/709.5) does not allow any individual who is a partner, Subchapter S corporation shareholder or beneficiary of a trust to avoid withholding from the portion of the business income apportionable to Illinois of the partnership, Subchapter S corporation or trust that flows through to him or her.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax